

2005 DRAFTING REQUEST

Bill

Received: **09/20/2005**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Ted Kanavas (608) 266-9174**

By/Representing: **mike**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Business - credits**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Kanavas@legis.state.wi.us**

Carbon copy (CC:) to: **joseph.kreye@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Tax credit for sales and use taxes paid on the purchase of Internet equipment

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	jkreye 09/23/2005 csundber 10/27/2005	lkunkel 11/07/2005	rschluet 11/07/2005	_____	mbarman 11/07/2005		
/1	jkreye 11/17/2005 csundber 11/17/2005 jkreye	jdye 11/18/2005	rschluet 11/18/2005	_____	lnorthro 11/18/2005	lnorthro 12/21/2005	State

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/P1	jkreye 09/23/2005 csundber 10/27/2005	lkunkel 11/07/2005	rschluet 11/07/2005		mbarman 11/07/2005		

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11/8/05 <END>

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Addl. Drafters: **CTS**

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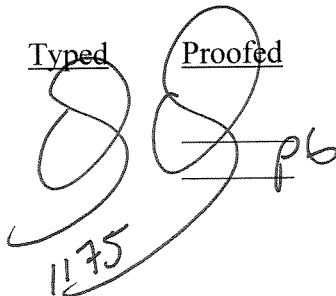
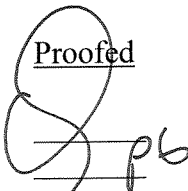
Topic:

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Instructions:

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/P1	jkreye	p1/mk 11/7					

FE Sent For:

<END>

Kreye, Joseph

From: Richards, Mike
Sent: Tuesday, September 20, 2005 1:04 PM
To: Kreye, Joseph
Subject: Broadband Draft--2312

Attachments: Broadband Changes 9-14-05.doc

Joe,

Can we get 2312 redrafted as another preliminary with the following adhered to? Thanks so much!



Broadband
anges 9-14-05.doc

Michael D. Richards

Michael D. Richards
Office of State Senator Ted Kanavas
State Capitol, Room 10 South
Madison, WI 53707-7882
608-266-9174

What:

- Income and franchise tax credit equal to the amount of state sales and use taxes that the taxpayer pays on the purchase of Internet equipment, as defined in LRB 2312/P1, that is used in the broadband market.

Amount:

- \$7.5 million may be granted by the Department of Commerce in the form of tax credits

Applying and Criteria:

- Taxpayer must apply for the credit from the Wisconsin Department of Commerce
- DOC will make their recommendation of who shall be granted the credit on the following basis

- JK?
1. Credits must be provided to areas that are considered un and underserved, which means that they must have one or fewer Internet service providers in the area, as defined by rule by the DOC
 2. Investment must be made within 24 months after the effective date of the bill
 3. The credits should only be granted to areas where it is reasonably believed to increase Internet availability in this state
 4. Credit must be used within 12 months after the effective date of the bill
 5. The cost savings associated with the credit in the amount of 20% that they paid in sales and use taxes will have to be invested

Review Process:

- Once the DOC has devised a plan for the distribution of credits, it will be provided to the JCF for passive review
- JCF may ok the credits, or ask them to revise the credit determination
- If no action after 14 day passive review, then it will be ok for DOC to authorize
- The DOR will then have to ~~certify to certify the credits~~, but revenue may not object to the DOC plan of action

After Credits are Revised and Provided:

- 2.
- The taxpayer will, and must, within 60 days after the end of the year in which the investment is made, will file a report with a detailed description of the investment, including a description of the detailed amount invested
 - The report will be provided to the DOC, DOR, DOA, and the PSC.

(soft)
TODAY

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 10-27-05

500N

D-N

LPS: anal:
prelim.
componentLPS: PLS
create
A.R.s

- ① AN ACT ^{to amend} ~~to amend~~ 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)
- 2 (a) 10. and 77.92 (4); and **to create** 71.07 (5e), 71.10 (4) (cp), 71.28 (5e), 71.30
- 3 (3) (dm), 71.47 (5e) and 71.49 (1) (dm) of the statutes; **relating to:** an income
- 4 and franchise tax credit for sales and use taxes paid on the purchase of Internet
- 5 equipment used in the broadband market.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit equal to the amount of state sales and use taxes that a taxpayer pays on the purchase of Internet equipment that is used in the broadband market. To take advantage of the credit, the taxpayer must certify to the Department of Revenue that he or she will, within 24 months after the effective date of this bill, make an investment that is reasonably calculated to increase Internet availability in this state and in an amount equal to at least 20 percent of the amount the taxpayer paid in sales and use taxes for the equipment during the 12-month period beginning on the effective date of this bill.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:

2 71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
3 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), and (5d), and (5e)
4 and not passed through by a partnership, limited liability company, or tax-option
5 corporation that has added that amount to the partnership's, company's, or
6 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

7 **SECTION 2.** 71.07 (5e) of the statutes is created to read:

8 71.07 **(5e)** INTERNET EQUIPMENT CREDIT. (a) *Definitions.* In this subsection:

9 1. "Claimant" means a person who files a claim under this subsection.

10 2. "Internet equipment used in the broadband market" means equipment that
11 is capable of transmitting data packets or Internet signals at speeds of at least 200
12 kilobits per second in either direction.

13 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
14 claimant may claim as a credit against the taxes imposed under ss. 71.02 and 71.08,
15 up to the amount of those taxes, an amount that is equal to the amount of the taxes
16 imposed under subchs. III and V of ch. 77 that the claimant paid in the taxable year
17 on the purchase of Internet equipment used in the broadband market.

18 (c) *Limitations.* 1. No credit may be allowed under this subsection unless the
19 claimant certifies to the department, in the manner prescribed by the department,
20 that the claimant will, within 24 months after the effective date of this subdivision
21 [revisor inserts date], make an investment that is reasonably calculated to
22 increase Internet availability in this state and in an amount equal to at least 20
23 percent of the amount the claimant paid in taxes imposed under subchs. III and V
24 of ch. 77 on the purchase of Internet equipment used in the broadband market during
25 the 12-month period beginning on the effective date of this subdivision [revisor

1 inserts date]. The claimant shall, within 60 days after the end of the year in which
2 the investment is made, file a report with the department of administration that
3 provides a detailed description of the investment, including the amount invested. *Insert B*

4 2. Partnerships, limited liability companies, and tax-option corporations may
5 not claim the credit under this subsection, but the eligibility for, and the amount of,
6 the credit are based on their payment of the amounts described under par. (b). A
7 partnership, limited liability company, or tax-option corporation shall compute the
8 amount of credit that each of its partners, members, or shareholders may claim and
9 shall provide that information to each of them. Partners, members of limited liability
10 companies, and shareholders of tax-option corporations may claim the credit in
11 proportion to their ownership interests.

12 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
13 s. 71.28 (4), applies to the credit under this subsection.

14 **SECTION 3.** 71.10 (4) (cp) of the statutes is created to read:

15 71.10 (4) (cp) Internet equipment credit under s. 71.07 (5e).

16 **SECTION 4.** 71.21 (4) of the statutes is amended to read:

17 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
18 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), and (5b), and (5e) and passed
19 through to partners shall be added to the partnership's income.

20 **SECTION 5.** 71.26 (2) (a) of the statutes is amended to read:

21 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
22 the gross income as computed under the Internal Revenue Code as modified under
23 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
24 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
25 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income

¶ 3. *The total amount of the credits that may be claimed by
all claimants under this subsection and ss. 71.28(5e) and 71.47(5e) is
\$7,500,000, as determined by the department of commerce.* Ⓞ

1 under this paragraph at the time that the taxpayer first claimed the credit plus the
2 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
3 (1ds), (1dx), (3g), (3n), (3t), and (5b), and (5e) and not passed through by a
4 partnership, limited liability company, or tax-option corporation that has added that
5 amount to the partnership's, limited liability company's, or tax-option corporation's
6 income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or
7 other disposition of assets the gain from which would be wholly exempt income, as
8 defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and
9 minus deductions, as computed under the Internal Revenue Code as modified under
10 sub. (3), plus or minus, as appropriate, an amount equal to the difference between
11 the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or
12 otherwise disposed of in a taxable transaction during the taxable year, except as
13 provided in par. (b) and s. 71.45 (2) and (5).

14 **SECTION 6.** 71.28 (5e) of the statutes is created to read:

15 71.28 (5e) INTERNET EQUIPMENT CREDIT. (a) *Definitions.* In this subsection:

16 1. "Claimant" means a person who files a claim under this subsection.

17 2. "Internet equipment used in the broadband market" means equipment that
18 is capable of transmitting data packets or Internet signals at speeds of at least 200
19 kilobits per second in either direction.

20 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
21 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the
22 amount of those taxes, an amount that is equal to the amount of the taxes imposed
23 under subchs. III and V of ch. 77 that the claimant paid in the taxable year on the
24 purchase of Internet equipment used in the broadband market.

Insert A

1 (c) *Limitations.* 1. No credit may be allowed under this subsection unless the
2 claimant certifies to the department, in the manner prescribed by the department,
3 that the claimant will, within 24 months after the effective date of this subdivision
4 [revisor inserts date], make an investment that is reasonably calculated to
5 increase Internet availability in this state and in an amount equal to at least 20
6 percent of the amount the claimant paid in taxes imposed under subchs. III and V
7 of ch. 77 on the purchase of Internet equipment used in the broadband market during
8 the 12-month period beginning on the effective date of this subdivision [revisor
9 inserts date]. The claimant shall, within 60 days after the end of the year in which
10 the investment is made, file a report with the department of administration that
11 provides a detailed description of the investment, including the amount invested.

12 2. Partnerships, limited liability companies, and tax-option corporations may
13 not claim the credit under this subsection, but the eligibility for, and the amount of,
14 the credit are based on their payment of the amounts described under par. (b). A
15 partnership, limited liability company, or tax-option corporation shall compute the
16 amount of credit that each of its partners, members, or shareholders may claim and
17 shall provide that information to each of them. Partners, members of limited liability
18 companies, and shareholders of tax-option corporations may claim the credit in
19 proportion to their ownership interests.

20 (d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under
21 sub. (4), applies to the credit under this subsection.

22 **SECTION 7.** 71.30 (3) (dm) of the statutes is created to read:

23 71.30 (3) (dm) Internet equipment credit under s. 71.28 (5e).

24 **SECTION 8.** 71.34 (1) (g) of the statutes is amended to read:

3. The total amount of the credits that may be claimed by all claimants
under this subsection and ss. 71.07(5e) and 71.47(5e) is \$7,500,000,
as determined by the department of commerce.

1 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
2 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
3 (3n), (3t), and (5b), and (5e) and passed through to shareholders.

4 **SECTION 9.** 71.45 (2) (a) 10. of the statutes is amended to read:

5 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
6 computed under s. 71.47 (1dd) to (1dx), (3n), and (5b), and (5e) and not passed
7 through by a partnership, limited liability company, or tax-option corporation that
8 has added that amount to the partnership's, limited liability company's, or
9 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and the amount of
10 credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

11 **SECTION 10.** 71.47 (5e) of the statutes is created to read:

12 71.47 (5e) INTERNET EQUIPMENT CREDIT. (a) *Definitions.* In this subsection:

13 1. "Claimant" means a person who files a claim under this subsection.

14 2. "Internet equipment used in the broadband market" means equipment that
15 is capable of transmitting data packets or Internet signals at speeds of at least 200
16 kilobits per second in either direction.

17 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
18 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the
19 amount of those taxes, an amount that is equal to the amount of the taxes imposed
20 under subchs. III and V of ch. 77 that the claimant paid in the taxable year on the
21 purchase of Internet equipment used in the broadband market. *Insert A*

22 (c) *Limitations.* 1. No credit may be allowed under this subsection unless the
23 claimant certifies to the department, in the manner prescribed by the department,
24 that the claimant will, within 24 months after the effective date of this subdivision
25 [revisor inserts date], make an investment that is reasonably calculated to

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

Insert A Use 3x

to provide Internet availability to areas of
the state where no Internet service provider
is located or where there is no Internet
service provider, as determined by the department of
commerce

Insert B Use 3x

The department of administration shall provide
copies of the report to the department of commerce,[^]
the department of revenue,[^] and the public service
commission.

1 increase Internet availability in this state and in an amount equal to at least 20
2 percent of the amount the claimant paid in taxes imposed under subchs. III and V
3 of ch. 77 on the purchase of Internet equipment used in the broadband market during
4 the 12-month period beginning on the effective date of this subdivision [revisor
5 inserts date]. The claimant shall, within 60 days after the end of the year in which
6 the investment is made, file a report with the department of administration that
7 provides a detailed description of the investment, including the amount invested.

8 2. Partnerships, limited liability companies, and tax-option corporations may
9 not claim the credit under this subsection, but the eligibility for, and the amount of,
10 the credit are based on their payment of the amounts described under par. (b). A
11 partnership, limited liability company, or tax-option corporation shall compute the
12 amount of credit that each of its partners, members, or shareholders may claim and
13 shall provide that information to each of them. Partners, members of limited liability
14 companies, and shareholders of tax-option corporations may claim the credit in
15 proportion to their ownership interests.

16 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
17 s. 71.28 (4), applies to the credit under this subsection.

18 **SECTION 11.** 71.49 (1) (dm) of the statutes is created to read:

19 71.49 (1) (dm) Internet equipment credit under s. 71.47 (5e).

20 **SECTION 12.** 77.92 (4) of the statutes is amended to read:

21 77.92 (4) "Net business income," with respect to a partnership, means taxable
22 income as calculated under section 703 of the Internal Revenue Code; plus the items
23 of income and gain under section 702 of the Internal Revenue Code, including taxable
24 state and municipal bond interest and excluding nontaxable interest income or
25 dividend income from federal government obligations; minus the items of loss and

3. The total amount of the credits that may be claimed by all
claimants under this subsection and ss. 71.07(5e) and 71.28(5e) is
\$7,500,000, as determined by the department of commerce.

1 deduction under section 702 of the Internal Revenue Code, except items that are not
2 deductible under s. 71.21; plus guaranteed payments to partners under section 707
3 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
4 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), and (5b), and (5e); and
5 plus or minus, as appropriate, transitional adjustments, depreciation differences,
6 and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding
7 income, gain, loss, and deductions from farming. "Net business income," with respect
8 to a natural person, estate, or trust, means profit from a trade or business for federal
9 income tax purposes and includes net income derived as an employee as defined in
10 section 3121 (d) (3) of the Internal Revenue Code.

11 **SECTION 13. Initial applicability.**

12 (1) This act first applies to taxable years beginning on January 1 of the year
13 in which this subsection takes effect, except that if this subsection takes effect after
14 July 31 this act first applies to taxable years beginning on January 1 of the year
15 following the year in which this subsection takes effect.

16 (END)

INSCS 8-10

dm

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3688/P1insCS
CTS:.....

insert CB 8-10

SECTION 1. Nonstatutory provisions.

create auto ref A.

(1) INTERNET EQUIPMENT CREDIT PROGRAM. (a) Not later than 30 days after the effective date of this subsection, the department of commerce shall implement a program for certifying businesses as eligible for tax credits under sections 71.07 (5e), 71.28 (5e), and 71.47 (5e) of the statutes.

create auto ref B.

(b) If the department of commerce certifies a business as eligible under paragraph (a), the department shall determine the maximum amount of tax credits the business may claim, subject to paragraph (c). The department may not allocate tax credits to a business unless the allocation of tax credits to the business is likely to increase the availability of Internet service in an area of this state that lacks adequate service, as determined by the department. The total amount of tax credits allocated to all eligible businesses may not exceed \$7,500,000. The department shall complete the certifications and determinations under this paragraph and paragraph (a) not later than the first day of the seventh month after the effective date of this subsection.

create auto ref C.

(c) Not later than 10 days after the department of commerce completes the certifications and determinations under paragraphs (a) and (b), the department of commerce shall submit to the joint committee on finance a report identifying the businesses certified under this subsection and the maximum amount of tax credits each business may claim. If the cochairpersons of the committee do not notify the department of commerce within 14 working days after the department of commerce submits the report that the committee has scheduled a meeting to review the department of commerce's certifications and determinations, the department of commerce shall notify the department of revenue of the department of commerce's certifications and determination. If, within 14 working days after the after the

1 department of commerce submits the report, the cochairpersons of the committee
2 notify the department of commerce that the committee has scheduled a meeting to
3 review the proposal, the department of commerce may not notify the department of
4 revenue of the department of commerce's certifications and determinations unless
5 one of the following is true:

6 1. The committee approves the department's^{of commerce's} certifications and determinations.

7 2. The committee does not hold a meeting to review the proposal within 75 days
8 after the cochairpersons notify the department^{of commerce} that a meeting has been scheduled.

9 (d) Notwithstanding section 227.24[✓] of the statutes, the department of
10 commerce may promulgate emergency rules necessary to administer this subsection.

11 Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules
12 promulgated under this subsection remain in effect until the department^{of commerce} notifies the
13 department of revenue of the department of commerce's certifications and
14 determinations, or the first day of the 13th month after the effective date of this
15 subsection, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the
16 statutes, the department^{of commerce} is not required to provide evidence that promulgating a rule
17 under this subsection as an emergency rule is necessary^{for the preservation of} ~~to protect~~ the public peace,
18 health, safety, or welfare and is not required to provide a finding of an emergency for
19 a rule promulgated under this subsection. ✓

end of insert

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3688/P1dn

JK&CTS.....

(date)

2 Ink

Senator Kanavas:

Please review this draft carefully to ensure that it is consistent with your intent. Under the bill, the Public Service Commission (PSC) will receive a copy of each claimant's report related to the claimant's investment. ✓ However, although it regulates telecommunications services, the PSC does not regulate Internet provider services. ✓ Do you still want the PSC to receive a copy of the report and, if so, why? ✓

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3688/P1dn
JK:lmk:rs

November 7, 2005

Senator Kanavas:

Please review this draft carefully to ensure that it is consistent with your intent. Under the bill, the Public Service Commission (PSC) will receive a copy of each claimant's report related to the claimant's investment. However, although it regulates telecommunications services, the PSC does not regulate Internet provider services. Do you still want the PSC to receive a copy of the report and, if so, why?

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us


Sundberg, Christopher

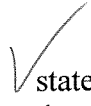
From: Richards, Mike
Sent: Thursday, November 17, 2005 3:04 PM
To: Sundberg, Christopher; Kreye, Joseph; Raschka, Adam
Cc: Davis, Brett
Subject: Broadband Changes

To: Chris Sundberg and Joe Kreye
From: Michael Richards, Aide to Senator Ted Kanavas
Cc: Adam Raschka
Re: LRBs 3688/P1 and 2140/P1
Date: Thursday, November 17, 2005


The purpose of this memorandum is to provide you with changes that Senator Kanavas would like to see made to LRBs 3688 and 2140. LRB 3688 is the credit language that will be introduced into the Legislature, and LRB 2140 will be amended and drafted as a substitute amendment and introduced in the committee.


To begin, I will address the changes that we would like to see made to the credit language, LRB 3668.

 **On page 2, line 3; page 4, line 19; and page 6 line 23** we would like to see the definition of "Claimant" to exclude governmental entities. We do not want to see units of government applying for these credits in the hopes of starting their own broadband infrastructure.

 **On page 2, lines 12-14; page 5, lines 3-5; and page 7, lines 9-11** we want to change this language to state "to provide Internet availability to areas of the state where the broadband market is under-developed, as determined by the department of commerce." Please note that we want Commerce to determine the areas and have to take into consideration the overall under-developed areas. The way this language is currently drafted, it would count dial-up providers, and not broadband.

We would like to define what under-developed means. It is our intent to state that under-developed means having one or fewer BROADBAND service providers.

 **On page 10, line 14** change the number 75 to 30.

 **On page 9, lines 12-20** we want to make sure that when you talk about the department, you are talking about the Department of Commerce.

In relation to LRB 2140, we want to include the process that we created in LRB 3668, under the newly amended language. However, we want an exemption instead of a credit. There is one further change that we would like to see made. On page 2 of LRB 2140, you talk about the purchaser. We want to ensure that the purchaser is not a governmental entity. It is just like our concerns that we mentioned before.

Thanks for taking a look at this. We are wanting to have a draft by December to get this bill into committee as soon as possible.

Michael D. Richards

Michael D. Richards
Office of State Senator Ted Kanavas
State Capitol, Room 10 South
Madison, WI 53707-7882
608-266-9174



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3688/P1
JK&CTS:lmk:rs

RMK Jld

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

in 11-17-05 D-N

due 11-28-05

Reger

1 AN ACT *to amend* 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)
2 (a) 10. and 77.92 (4); and *to create* 71.07 (5e), 71.10 (4) (cp), 71.28 (5e), 71.30
3 (3) (dm), 71.47 (5e) and 71.49 (1) (dm) of the statutes; **relating to:** an income
4 and franchise tax credit for sales and use taxes paid on the purchase of Internet
5 equipment used in the broadband market. ✓

INSERT
A

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be provided in a later version.~~

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 SECTION 1. 71.05 (6) (a) 15. ✓ of the statutes is amended to read:
7 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
8 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), and (5d), ✓ and (5e)
9 and not passed through by a partnership, limited liability company, or tax-option
10 corporation that has added that amount to the partnership's, company's, or
11 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

1 **SECTION 2.** 71.07 (5e) of the statutes is created to read:

2 **71.07 (5e) INTERNET EQUIPMENT CREDIT.** (a) *Definitions.* In this subsection:

3 1. "Claimant" means a person who files a claim under this subsection.

4 2. "Internet equipment used in the broadband market" means equipment that
5 is capable of transmitting data packets or Internet signals at speeds of at least 200
6 kilobits per second in either direction.

7 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
8 claimant may claim as a credit against the taxes imposed under ss. 71.02 and 71.08,
9 up to the amount of those taxes, an amount that is equal to the amount of the taxes
10 imposed under subchs. III and V of ch. 77 that the claimant paid in the taxable year
11 on the purchase of Internet equipment used in the broadband market to provide
12 Internet availability to areas of the state ~~where no Internet service provider is~~
13 ~~located or where there is no Internet service provider,~~ as determined by the
14 department of commerce.

15 (c) *Limitations.* 1. No credit may be allowed under this subsection unless the
16 claimant certifies to the department, ^{of commerce} in the manner prescribed by the department,
17 that the claimant will, within [✓]24 months after the effective date of this subdivision
18 [revisor inserts date], make an investment that is reasonably calculated to
19 increase Internet availability in this state and in an amount equal to at least 20
20 percent of the amount the claimant paid in taxes imposed under subchs. III and V
21 of ch. 77 on the purchase of Internet equipment used in the broadband market during
22 the 12-month period beginning on the effective date of this subdivision [revisor
23 inserts date]. The claimant shall, within 60 days after the end of the year in which
24 the investment is made, file a report with the department of administration that
25 provides a detailed description of the investment, including the amount invested.

that are ^{not} served by a broadband service provider
or are served by not more than ^{one} broadband
service provider

1 The department of administration shall provide copies of the report to the
2 department of commerce, the department of revenue, and the public service
3 commission.

4 2. Partnerships, limited liability companies, and tax-option corporations may
5 not claim the credit under this subsection, but the eligibility for, and the amount of,
6 the credit are based on their payment of the amounts described under par. (b). A
7 partnership, limited liability company, or tax-option corporation shall compute the
8 amount of credit that each of its partners, members, or shareholders may claim and
9 shall provide that information to each of them. Partners, members of limited liability
10 companies, and shareholders of tax-option corporations may claim the credit in
11 proportion to their ownership interests.

12 3. The total amount of the credits that may be claimed by all claimants under
13 this subsection and ss. 71.28 (5e) and 71.47 (5e) is \$7,500,000[✓], as determined by the
14 department of commerce.

15 (d) *Administration*. Section 71.28 (4) (e) to (h), as it applies to the credit under
16 s. 71.28 (4), applies to the credit under this subsection.

17 **SECTION 3.** 71.10 (4) ~~(cp)~~^(gy) of the statutes is created to read:

18 71.10 (4) ~~(cp)~~^(gy) Internet equipment credit under s. 71.07 (5e).

19 **SECTION 4.** 71.21 (4) of the statutes is amended to read:

20 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
21 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), and (5b), and (5e) and passed
22 through to partners shall be added to the partnership's income.

23 **SECTION 5.** 71.26 (2) (a) of the statutes is amended to read:

24 71.26 (2) (a) *Corporations in general*. The "net income" of a corporation means
25 the gross income as computed under the Internal Revenue Code as modified under

1 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
2 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
3 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
4 under this paragraph at the time that the taxpayer first claimed the credit plus the
5 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
6 (1ds), (1dx), (3g), (3n), (3t), ~~and (5b),~~ and (5e) and not passed through by a
7 partnership, limited liability company, or tax-option corporation that has added that
8 amount to the partnership's, limited liability company's, or tax-option corporation's
9 income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or
10 other disposition of assets the gain from which would be wholly exempt income, as
11 defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and
12 minus deductions, as computed under the Internal Revenue Code as modified under
13 sub. (3), plus or minus, as appropriate, an amount equal to the difference between
14 the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or
15 otherwise disposed of in a taxable transaction during the taxable year, except as
16 provided in par. (b) and s. 71.45 (2) and (5).

17 **SECTION 6.** 71.28 (5e) of the statutes is created to read:

18 **71.28 (5e) INTERNET EQUIPMENT CREDIT.** (a) *Definitions.* In this subsection:

19 1. "Claimant" means a person who files a claim under this subsection.

20 2. "Internet equipment used in the broadband market" means equipment that
21 is capable of transmitting data packets or Internet signals at speeds of at least 200
22 kilobits per second in either direction.

23 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
24 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the
25 amount of those taxes, an amount that is equal to the amount of the taxes imposed

1 under subchs. III and V of ch. 77 that the claimant paid in the taxable year on the
2 purchase of Internet equipment used in the broadband market to provide Internet
3 availability to areas of the state ~~where no Internet service provider is located or~~
4 ~~where there is no Internet service provider,~~ as determined by the department of
5 commerce.

6 (c) *Limitations.* 1. No credit may be allowed under this subsection unless the
7 claimant certifies to the department, ^{of commerce} in the manner prescribed by the department,
8 that the claimant will, within 24 months after the effective date of this subdivision
9 [revisor inserts date], make an investment that is reasonably calculated to
10 increase Internet availability in this state and in an amount equal to at least 20
11 percent of the amount the claimant paid in taxes imposed under subchs. III and V
12 of ch. 77 on the purchase of Internet equipment used in the broadband market during
13 the 12-month period beginning on the effective date of this subdivision [revisor
14 inserts date]. The claimant shall, within 60 days after the end of the year in which
15 the investment is made, file a report with the department of administration that
16 provides a detailed description of the investment, including the amount invested.
17 The department of administration shall provide copies of the report to the
18 department of commerce, the department of revenue, and the public service
19 commission.

20 2. Partnerships, limited liability companies, and tax-option corporations may
21 not claim the credit under this subsection, but the eligibility for, and the amount of,
22 the credit are based on their payment of the amounts described under par. (b). A
23 partnership, limited liability company, or tax-option corporation shall compute the
24 amount of credit that each of its partners, members, or shareholders may claim and
25 shall provide that information to each of them. Partners, members of limited liability

*not that are not served by a broadband
service provider or are served by not more
than one broadband service provider*

SECTION 6

1 companies, and shareholders of tax-option corporations may claim the credit in
2 proportion to their ownership interests.

3 3. The total amount of the credits that may be claimed by all claimants under
4 this subsection and ss. 71.07 (5e) and 71.47 (5e) is \$7,500,000, as determined by the
5 department of commerce.

6 (d) *Administration*. Subsection (4) (e) to (h), as it applies to the credit under
7 sub. (4), applies to the credit under this subsection.

8 **SECTION 7.** 71.30 (3) ~~(dm)~~^(er) of the statutes is created to read:

9 71.30 (3) ~~(dm)~~^(es) Internet equipment credit under s. 71.28 (5e).

10 **SECTION 8.** 71.34 (1) (g) of the statutes is amended to read:

11 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
12 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
13 (3n), (3t), and (5b), and (5e) and passed through to shareholders.

14 **SECTION 9.** 71.45 (2) (a) 10. of the statutes is amended to read:

15 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
16 computed under s. 71.47 (1dd) to (1dx), (3n), and (5b), and (5e) and not passed
17 through by a partnership, limited liability company, or tax-option corporation that
18 has added that amount to the partnership's, limited liability company's, or
19 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and the amount of
20 credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

21 **SECTION 10.** 71.47 (5e) of the statutes is created to read:

22 71.47 (5e) INTERNET EQUIPMENT CREDIT. (a) *Definitions*. In this subsection:

23 1. "Claimant" means a person who files a claim under this subsection.

1 2. "Internet equipment used in the broadband market" means equipment that
2 is capable of transmitting data packets or Internet signals at speeds of at least 200
3 kilobits per second in either direction.

4 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
5 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the
6 amount of those taxes, an amount that is equal to the amount of the taxes imposed
7 under subchs. III and V of ch. 77 that the claimant paid in the taxable year on the
8 purchase of Internet equipment used in the broadband market to provide Internet
9 availability to areas of the state ~~where no Internet service provider is located or~~
10 ~~where there is no Internet service provider,~~ as determined by the department of
11 commerce.

12 (c) *Limitations.* 1. No credit may be allowed under this subsection unless the
13 claimant certifies to the ~~department~~ ^{of commerce} in the manner prescribed by the department,
14 that the claimant will, within 24 months after the effective date of this subdivision
15 [revisor inserts date], make an investment that is reasonably calculated to
16 increase Internet availability in this state and in an amount equal to at least 20
17 percent of the amount the claimant paid in taxes imposed under subchs. III and V
18 of ch. 77 on the purchase of Internet equipment used in the broadband market during
19 the 12-month period beginning on the effective date of this subdivision [revisor
20 inserts date]. The claimant shall, within 60 days after the end of the year in which
21 the investment is made, file a report with the department of administration that
22 provides a detailed description of the investment, including the amount invested.
23 The department of administration shall provide copies of the report to the
24 department of commerce, the department of revenue, and the public service
25 commission.

that are not served by a broadband service
provider or are served by not more than
^{one} broadband service provider

1 2. Partnerships, limited liability companies, and tax-option corporations may
2 not claim the credit under this subsection, but the eligibility for, and the amount of,
3 the credit are based on their payment of the amounts described under par. (b). A
4 partnership, limited liability company, or tax-option corporation shall compute the
5 amount of credit that each of its partners, members, or shareholders may claim and
6 shall provide that information to each of them. Partners, members of limited liability
7 companies, and shareholders of tax-option corporations may claim the credit in
8 proportion to their ownership interests.

9 3. The total amount of the credits that may be claimed by all claimants under
10 this subsection and ss. 71.07 (5e) and 71.28 (5e) is \$7,500,000, as determined by the
11 department of commerce.

12 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
13 s. 71.28 (4), applies to the credit under this subsection.

14 **SECTION 11.** 71.49 (1) ^(es)~~(dm)~~ of the statutes is created to read:

15 71.49 (1) ^(es)~~(dm)~~ Internet equipment credit under s. 71.47 (5e).

16 **SECTION 12.** 77.92 (4) of the statutes is amended to read:

17 77.92 (4) "Net business income," with respect to a partnership, means taxable
18 income as calculated under section 703 of the Internal Revenue Code; plus the items
19 of income and gain under section 702 of the Internal Revenue Code, including taxable
20 state and municipal bond interest and excluding nontaxable interest income or
21 dividend income from federal government obligations; minus the items of loss and
22 deduction under section 702 of the Internal Revenue Code, except items that are not
23 deductible under s. 71.21; plus guaranteed payments to partners under section 707
24 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
25 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), ~~and (5b), and (5e);~~ and

1 plus or minus, as appropriate, transitional adjustments, depreciation differences,
2 and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding
3 income, gain, loss, and deductions from farming. "Net business income," with respect
4 to a natural person, estate, or trust, means profit from a trade or business for federal
5 income tax purposes and includes net income derived as an employee as defined in
6 section 3121 (d) (3) of the Internal Revenue Code.

7 **SECTION 13. Nonstatutory provisions.** ④

8 (1) INTERNET EQUIPMENT CREDIT PROGRAM. (a) Not later than 30 days after the
9 effective date of this subsection, the department of commerce shall implement a
10 program for certifying businesses as eligible for tax credits under sections 71.07 (5e),
11 71.28 (5e), and 71.47 (5e) of the statutes.

12 (b) If the department of commerce certifies a business as eligible under
13 paragraph (a), the department shall determine the maximum amount of tax credits
14 the business may claim, subject to paragraph (c). The department may not allocate
15 tax credits to a business unless the allocation of tax credits to the business is likely
16 to increase the availability of Internet service in an area of this state that lacks
17 adequate service, as determined by the department. The total amount of tax credits
18 allocated to all eligible businesses may not exceed \$7,500,000. The department shall
19 complete the certifications and determinations under this paragraph and paragraph
20 (a) not later than the first day of the 7th month after the effective date of this
21 subsection. of commerce

22 (c) Not later than 10 days after the department of commerce completes the
23 certifications and determinations under paragraphs (a) and (b), the department of
24 commerce shall submit to the joint committee on finance a report identifying the
25 businesses certified under this subsection and the maximum amount of tax credits

1 each business may claim. If the cochairpersons of the committee do not notify the
2 department of commerce within 14 working days after the department of commerce
3 submits the report that the committee has scheduled a meeting to review the
4 department of commerce's certifications and determinations, the department of
5 commerce shall notify the department of revenue of the department of commerce's
6 certifications and determination. If, within 14 working days after the department
7 of commerce submits the report, the cochairpersons of the committee notify the
8 department of commerce that the committee has scheduled a meeting to review the
9 proposal, the department of commerce may not notify the department of revenue of
10 the department of commerce's certifications and determinations unless one of the
11 following is true:

12 1. The committee approves the department of commerce's certifications and
13 determinations.

14 2. The committee does not hold a meeting to review the proposal within 30[✓] days
15 after the cochairpersons notify the department of commerce that a meeting has been
16 scheduled.

17 (d) Notwithstanding section 227.24 of the statutes, the department of
18 commerce may promulgate emergency rules necessary to administer this subsection.
19 Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules
20 promulgated under this subsection remain in effect until the department of
21 commerce notifies the department of revenue of the department of commerce's
22 certifications and determinations, or the first day of the 13th month after the
23 effective date of this subsection, whichever is sooner. Notwithstanding section
24 227.24 (1) (a) and (3) of the statutes, the department of commerce is not required to
25 provide evidence that promulgating a rule under this subsection as an emergency

1 rule is necessary for the preservation of the public peace, health, safety, or welfare
2 and is not required to provide a finding of emergency for a rule promulgated under
3 this subsection.

4 **SECTION 14. Initial applicability.**

5 (1) This act first applies to taxable years beginning on January 1 of the year
6 in which this subsection takes effect, except that if this subsection takes effect after
7 July 31 this act first applies to taxable years beginning on January 1 of the year
8 following the year in which this subsection takes effect. ✓

9 (END)

d-note
↓

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3688/lins
JK&CTS:lmk:rs

Insert A

This bill creates an income and franchise tax credit for Internet equipment used in the broadband market. The amount of the credit is equal to the the amount of sales and use taxes that the taxpayer paid in the taxable year on the purchase of Internet equipment used in the broadband market to provide Internet availability to areas of the state ~~where the broadband market is underdeveloped~~, as determined by the Department of Commerce (~~Commerce~~). The total amount of the credits that may be claimed by all taxpayers is \$7,500,000. A taxpayer may only claim the credit if the taxpayer certifies to ~~Commerce~~ that the taxpayer will, within 24 months from the bill's effective date, make an investment that is reasonable calculated to increase Internet availability in this state and in an amount equal to at least 20 percent of the amount of the sales and use taxes that the taxpayer paid during the 12-month period beginning on the bill's effective date on the purchase of Internet equipment used in the broadband market.

For further information see the ~~state~~ fiscal estimate, which will be printed as an appendix to this bill.

NO
that are not served by a broadband
service provider or are served by not more
than one broadband service provider

department

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

~~Handwritten signature~~3688/dr
VK:jld

Kanavas

Senator Kanavas:

Please review this draft carefully to ^{ensure} ~~ensure~~ that it is consistent with your intent. I did not exclude governmental ^{entities} from the definitions of "^{claimant} claimant" because governmental ^{entities} do ^{not} pay income tax ^{or} sales tax and, therefore, do not have any ^{basis} for claiming a tax credit.

VK

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3688/1dn
JK:jld:rs

November 18, 2005

Senator Kanavas:

Please review this draft carefully to ensure that it is consistent with your intent. I did not exclude governmental entities from the definition of "claimant" because governmental entities do not pay income tax or sales tax and, therefore, do not have any basis for claiming a tax credit.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

Barman, Mike

From: Richards, Mike
Sent: Wednesday, December 21, 2005 2:30 PM
To: LRB.Legal
Subject: Can we get the bill jacket for LRB 3688

Can we get the bill jacket for LRB 3688

Thanks

Michael D. Richards

Michael D. Richards
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Madison, WI 53707-7882
608-266-9174